



FREDERICK COUNTY GOVERNMENT

Jessica Fitzwater
County Executive

DIVISION OF PLANNING & PERMITTING

Department of Development Review & Planning

Deborah Carpenter, AICP, Division Director
Michael L. Wilkins, Director

To: Frederick County Planning Commission

From: Michael Wilkins, Director, Department of Development Review and Planning

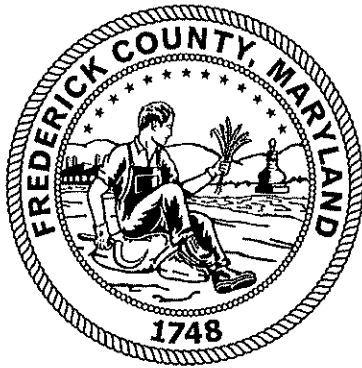
Date: October 26, 2023

Subject: Council Bill #23-21: Amendments to Chapter 1-19 of the Frederick County Code (Zoning Ordinance) to create definitions and approval criteria for Cannabis Dispensary, Cannabis Growing Facility, and Cannabis Processing Facility in response to the statewide legalization of adult-use cannabis.

Attached, please find the proposed Bill and Staff report for the Planning Commission's review and recommendation in accordance with 1-19-3.100.3(A) of the Zoning Ordinance.

Thank you for your attention to this matter.

Attachments:
Proposed Bill
Staff Report



Bill No. 23-21
Concerning: Amendments to Chapter 1-19 (Zoning Ordinance) for Cannabis Dispensary, Cannabis Growing Facility, and Cannabis Processing Facility.
Introduced: October 17, 2023
Revised: _____ Draft No. _____
Enacted: _____
Effective: _____
Expires: January 15, 2024
Frederick County Code, Chapter 1-19
Section(s) 5.310, 8.240, 8.404, & 11.100

COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council President Brad Young on behalf of County Executive Jessica Fitzwater

AN ACT to: Create definitions and approval criteria for Cannabis Dispensary, Cannabis Growing Facility, and Cannabis Processing Facility in response to the statewide legalization of adult-use cannabis.

Date Council Approved: _____ Date Transmitted to Executive: _____

Executive: _____ Date Received: _____

Approved: _____ Date: _____

Vetoed: _____ Date: _____

Date returned to Council by County Executive with no action: _____

By amending:

Frederick County Code, Chapter 1-19 Section(s) 5.310, 8.240, 8.404, & 11.100

Other: _____

Boldface

Underlining

[Single boldface brackets]

* * *

Heading or defined term.

Added to existing law.

Deleted from existing law.

Existing law unaffected by bill.

Bill No. 23-21

WHEREAS the Zoning Ordinance does not include definitions or regulations for cannabis related uses; and

WHEREAS the State of Maryland adopted Senate Bill 516- Cannabis Reform, which allows local jurisdictions to “establish reasonable zoning requirements for cannabis businesses” that do not “unduly burden a cannabis licensee”; and

WHEREAS the County Council of Frederick County, Maryland, finds it necessary and appropriate to amend the Frederick County Code to adopt definitions and approval criteria for Cannabis Dispensary, Cannabis Growing Facility, and Cannabis Processing Facility in response to the statewide legalization of adult-use cannabis.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.

Brad Young, President
County Council of Frederick County,
Maryland

Underlining indicates matter added to existing law.

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Bill No. 23-21

1 **§ 1-19-5.310. USE TABLE.**

2 (A) Permitted uses and required development review.

3 P Principal permitted use subject to design regulations

4 PS Principal permitted use subject to site development plan approval. See §§ 1-19-2.160, and 1-
5 19-3.300 through 1-19-3.300.4

6 E Principal permitted use as a special exception with site development plan approval. See §§ 1-
7 19-8.320 and following

8 T Permitted as temporary use as a special exception. See § 1-19-8.300

9 X Permitted as temporary use only. See § 1-19-8.700

10 SW Solid Waste Floating Zone

11 A blank indicates that the use is not permitted under any situation

Uses	RC	A	R1	R3	R5	R8	R12	R16	VC	MX	GC	ORI	LI	GI
Commercial Uses - Retail														
[Some rows removed]	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Book and magazine									PS	PS	PS			
Camera									PS	PS	PS			
<u>Cannabis Dispensary</u>									<u>PS</u>	<u>PS</u>	<u>PS</u>			
Convenience stores									PS	PS	PS		PS	PS
Department store or variety store									PS	PS	PS			
[Some rows removed]	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Industrial Uses														
<u>Cannabis Growing Facility</u>												<u>PS</u>	<u>PS</u>	<u>PS</u>
<u>Cannabis Processing Facility</u>												<u>PS</u>	<u>PS</u>	<u>PS</u>
Limited manufacturing and assembly use												PS	PS	PS
General manufacturing														PS
[Some rows removed]	-	-	-	-	-	-	-	-	-	-	-	-	-	-

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Bill No. 23-21

§ 1-19-8.240. ACCESSORY USES ON RESIDENTIAL PROPERTIES.

(A) Customary accessory uses permitted on residential properties include the following.

(5) Home occupations.

(a) *General home occupation standards.* All home occupations shall comply with the following conditions.

[Subsections (1) through (9) remain unchanged.]

10. Cannabis Dispensary, Cannabis Growing Facility, and Cannabis Processing Facility are not permissible home occupation uses.

§ 1-19-8.404. CANNABIS DISPENSARY, CANNABIS GROWING FACILITY, AND CANNABIS PROCESSING FACILITY.

§ 1-19-8.404.1. SCOPE.

The provisions of this division shall apply to:

(1) All Cannabis Dispensaries, Cannabis Growing Facilities, and Cannabis Processing Facilities legally established in the County prior to January 1, 2023, for which an application is received for an expansion of use, and;

(2) All applications for establishing a new Cannabis Dispensary, Cannabis Growing Facility, or Cannabis Processing Facility.

§ 1-19-8.404.2. CANNABIS DISPENSARY.

The following provisions shall apply to a Cannabis Dispensary.

(A) A Cannabis Dispensary may not be located:

(1) Within 1,500 feet of an existing public or private school, park, library, playground, recreation center, childcare center, and family childcare home.

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(2) Within 1,500 feet of a property owned by Frederick County Government or owned by the Frederick County Board of Education that is planned to be used for a public school, park, library, playground, or recreation center in the future.

(3) Within 1,500 feet of a property identified on the Comprehensive Plan as a future public school, library, recreation center, park, or similar use that is intended to be used for a public purpose.

(4) Within 1,000 feet of another Cannabis Dispensary.

(B) The distance requirements under subsection (A) above shall be measured using a direct line between the nearest property lines.

(C) A Cannabis Dispensary may not operate as a home occupation.

(D) The Cannabis Dispensary use, requirements, and restrictions apply to operations under a standard cannabis license issued by the state as well as operations under a micro license issued by the state.

§ 1-19-8.404.3. CANNABIS GROWING FACILITY.

The following provisions shall apply to a Cannabis Growing Facility.

(A) A Cannabis Growing Facility may not operate as a home occupation.

(B) Performance Standards:

(1) In the LI and GI districts, the performance standards under §1-19-7.610 shall apply.

(2) In the ORI district, the performance standards under §1-19-7.620 shall apply.

(C) Growing shall be conducted indoors.

(D) Security fencing shall be screened from view by the use of vegetative landscaping, emphasizing native species.

(E) The Cannabis Growing Facility use, requirements, and restrictions apply to operations under a standard cannabis license issued by the state as well as operations under a micro license issued by the state.

(F) A Cannabis Growing Facility may include an accessory Cannabis Processing Facility use and an accessory Cannabis Dispensary use subject to meeting the requirements under §1-19-8.250.1.

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Bill No. 23-21

1 **§ 1-19-8.404.4. CANNABIS PROCESSING FACILITY.**

2 The following provisions shall apply to a Cannabis Processing Facility.

3 (A) A Cannabis Processing Facility may not operate as a home occupation.

4 (B) Performance Standards:

5 (1) In the LI and GI districts, the performance standards under §1-19-7.610 shall apply.

6 (2) In the ORI district, the performance standards under §1-19-7.620 shall apply.

7 (C) Security fencing shall be screened from view by the use of vegetative landscaping,
8 emphasizing native species.

9 (D) The Cannabis Processing Facility use, requirements, and restrictions apply to operations
10 under a standard cannabis license issued by the state as well as operations under a micro
11 license issued by the state.

12 (E) A Cannabis Processing Facility may include an accessory Cannabis Dispensary use and an
13 accessory Cannabis Growing Facility use subject to meeting the requirements under § 1-
14 19-8.404 and §1-19-8.250.1.

15
16 **§ 1-19-8.404.5. CANNABIS ON-SITE CONSUMPTION FACILITY.**

17 Cannabis On-Site Consumption Facilities are not permitted.

18
19 **§ 1-19-11.100. DEFINITIONS.**

20 [Subsection (A) remains unchanged.]

21 (B) In this chapter the following terms are used as defined unless otherwise apparent from the
22 context.

23 *****

24 **CANNABIS.** The plant cannabis sativa l. and any part of the plant, including all derivatives,
25 extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a
26 delta-9-tetrahydrocannabinol concentration greater than 0.3% on a dry weight basis. Cannabis
27 includes cannabis products. Cannabis does not include hemp or hemp products, as defined in the
28 MD. Code Ann., Agricultural Article.

29

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1 **CANNABIS DISPENSARY.** An entity licensed by the state that acquires, possesses,
2 repackages, transports, sells, distributes, or dispenses, cannabis or cannabis products, including
3 tinctures, aerosols, oils, and ointments, related supplies, and educational materials for use by
4 qualifying patients, caregivers, or consumers through a storefront.

5
6 **CANNABIS GROWING FACILITY.** An entity licensed by the state that cultivates and
7 packages cannabis and is authorized by the state to provide cannabis to other cannabis licensees
8 and registered independent testing laboratories.

9
10 **CANNABIS MICRO LICENSE.** A license issued by the state in accordance with § 36–
11 401(c)(2) of the Alcoholic Beverages Article of the Maryland Annotated Code, Medical and Adult
12 Use Cannabis Title. A micro license authorizes the holder of the license:

- 13 (i) for growers, to operate not more than 10,000 square feet of indoor canopy or its
14 equivalent;
15 (ii) for processors, to process not more than 1,000 pounds of cannabis per year; and
16 (iii) for dispensaries, to operate a delivery service that sells cannabis or cannabis
17 products without a physical storefront, provided that the licensee employs not more
18 than 10 employees.

19
20 **CANNABIS ON-SITE CONSUMPTION ESTABLISHMENT.** An entity licensed by the state
21 to distribute cannabis or cannabis products for on-site consumption other than consumption by
22 smoking indoors.

23
24 **CANNABIS PROCESSING FACILITY.** An entity licensed by the state that transforms
25 cannabis into another product or an extract and packages and labels the cannabis product and is
26 authorized by the state to provide cannabis to licensed dispensaries and registered independent
27 testing laboratories.

28 *****
29
30

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Bill No. 23-21

**FREDERICK COUNTY GOVERNMENT****DIVISION OF PLANNING & PERMITTING**

Deborah A. Carpenter, AICP, Division Director

TO: County Council

THROUGH: County Executive Jessica Fitzwater

FROM: Deborah Carpenter, Division Director, Planning & Permitting Division
Michael Wilkins, Director, Development Review and Planning Department

DATE: September 5, 2023

SUBJECT: Amendments to Chapter 1-19 of the Frederick County Code (Zoning Ordinance) To Add Cannabis Dispensary, Cannabis Growing Facility, and Cannabis Processing Facility as new uses

ISSUE:

Should the County amend the Zoning Ordinance (Chapter 1-19) to establish regulations for new cannabis production, processing, and sales facilities pursuant to Senate Bill 516 (Cannabis Reform)?

BACKGROUND:

The Frederick County Zoning Ordinance (Chapter 1-19 of the County Code) does not provide for cannabis related uses. In 2017, the Department of Development Review established a Medical Cannabis Operations policy that documented the approval process for any facility proposing to produce, process, or sell medical cannabis in the County. Medical Cannabis Dispensary was reviewed as a “pharmacy” and Growing and Processing Facilities were reviewed as a “Limited Manufacturing and Assembly” use.

On May 3, 2023, Governor Moore signed Senate Bill 516 (Cannabis Reform) into law. This law permits existing medical cannabis licensees to begin growing, processing, and selling cannabis for non-medical adult use, subject to the State’s license conversion procedures. Section 36-405(C) of the adopted law states; “*The use of a facility by a cannabis licensee is not required to be submitted to, or approved by, a County or Municipal Zoning Board, Authority, or unit if it was properly zoned and operating on or before January 1, 2023*”.

Senate Bill 516 also provides for the issuance of new cannabis licenses for the production, processing, and sales of adult use cannabis. These licenses will be issued in phases; the first application period will begin in Fall 2023 with awards being issued in January 2024. The second application period will begin as early as May 2024. Licenses will be issued based on codified State criteria through a lottery system.

Staff from the Division of Planning and Permitting, Office of Economic Development, County Attorney’s Office, and the County Executive’s Office reviewed the provisions of the State law and conducted research to determine how the County may adapt to the expansion of the cannabis industry.

ANALYSIS:

State law identifies four types of cannabis facilities:

- Growing:
 - Defined as an entity that cultivates or packages cannabis and is authorized to provide cannabis to other cannabis licensees.
 - A standard license from the Maryland Cannabis Administration (MCA) allows a grower to operate a facility that grows up to 300,000 square feet of indoor canopy or its equivalent.
 - A Micro License is available for growers to operate not more than 10,000 square feet of indoor canopy or its equivalent.
 - 1 square foot of indoor canopy is equal to 4 square feet of outdoor canopy.
- Processing:
 - Defined as a facility that transforms cannabis into another product or an extract and packages and labels the end product. Processors are also permitted to provide cannabis to licensed dispensaries.
 - A standard license from the MCA permits the processing of more than 1,000 lbs. of cannabis each year.
 - A Micro License is available for processing no more than 1,000 lbs. of cannabis per year.
- Dispensary:
 - Defined as an entity that acquires, possesses, transfers, transports, sells, distributes, or dispenses cannabis or cannabis products.
 - A Micro License is available for this use, which allows the operation of a delivery service that sells cannabis or cannabis products without a physical storefront, with a limitation of no more than 10 employees.
- On-site consumption
 - Defined as the distribution of cannabis or cannabis product for on-site consumption, excluding consumption by smoking.
 -
 - Prohibitions include;
 - Cultivating, processing, or adding cannabis to food that is prepared or served on the premises.
 - Smoking or vaping of tobacco products.
 - Smoking cannabis on the licensed premises.
 - Uses that require a separate growing, processing, or dispensing license.
 - Serving alcohol.
 - Although smoking cannabis is prohibited, a jurisdiction may allow (or disallow) vaping indoors and outdoors.

State Law establishes some limitations on a local jurisdiction's authority to regulate this industry.

- A local jurisdiction may;
 - Establish "reasonable" zoning requirements for cannabis businesses.
 - Prohibit or regulate on-site consumption facilities.
- A local jurisdiction may not;
 - Establish zoning or other requirements that "unduly burden" a cannabis licensee.

- Impose licensing, operating, or other fees or requirements that are disproportionately greater or more burdensome than those imposed on other businesses with a similar impact.
- Prohibit transportation through or deliveries within the jurisdiction by cannabis businesses located in other jurisdictions.
- Negotiate for money, donations, in-kind contributions, services, or anything of value to the local jurisdiction.
- Per State law, dispensaries may not be located within 1,000 feet of another dispensary.
- The State law also requires a distance of 500 ft. between new dispensaries and existing schools, parks, libraries, playgrounds, recreation centers, childcare centers, and family childcare homes.

The attached Bill establishes reasonable zoning requirements for cannabis businesses. (Attachment 1)

- Cannabis Dispensaries, Cannabis Growing Facilities, and Cannabis Processing Facilities are proposed to be permitted in the same zoning districts where medical dispensaries, growing facilities, and processing facilities were permitted prior to SB 516.
- This Bill does not permit growing facilities in the AG Zone. The workgroup discussed this issue and consulted the Farm Bureau but felt that with current facility requirements (security, lighting, etc.), this use would not be appropriate in the AG Zone.
- The proposed definitions are taken from State Law.
- This Bill proposes a 1,500 ft. separation distance between a Cannabis Dispensary and existing schools, parks, libraries, playgrounds, recreation centers, childcare centers, and family childcare homes. The workgroup reviewed maps illustrating 500 ft., 1,000 ft., and 1,500 ft. buffers from existing schools, parks, libraries, playgrounds, recreation centers, childcare centers, and family childcare homes and found that a 1,500 ft. buffer did not significantly reduce available sites in the zoning districts where this use may be permitted. (Attachment 2)
- This Bill also proposes to establish a 1,500 ft. buffer between a Cannabis Dispensary and any property owned by the County, Board of Education, or identified on the Comprehensive Plan as a future school, library, recreation center, park, or similar use that is intended to be used for a public purpose in the future. County Staff believe this provision will help prevent a cannabis business from becoming a nonconforming use by locating too close to an identified future public facility and will also maintain the intent of the State law by applying a distance requirement from planned public facilities.
- This Bill proposes to apply the same requirements for standard-license operations as well as micro-licenses. Under the State law provisions, the activities allowed under the micro-licenses would qualify as a home occupation per County Zoning regulations. County Staff does not support growing, processing, or dispensing cannabis as a home occupation.
- SB 516 authorizes the State to issue 50 on-site consumption licenses statewide. State Law provides local jurisdictions with the authority to approve or disapprove this use. This Bill proposes to prohibit on-site consumption facilities. It is the opinion of County Staff that permitting this use may create Zoning enforcement concerns or public nuisance issues. Any regulation adopted by the County that is not a State requirement would become a County enforcement issue. For example, if a facility was serving alcohol, it would be a violation of State law and would be a State enforcement issue. If the County elected to prohibit vaping indoors or outdoors, it would be a County enforcement action since the State law does not prohibit outdoor vaping. If outdoor vaping were permitted, it has the potential to impact adjoining businesses.

RECOMMENDATION:

Staff recommends that the County Council adopt the attached Bill to amend Chapter 1-19 of the County Code (Zoning Ordinance) to add Cannabis Dispensary, Cannabis Growing Facility, and Cannabis Processing Facility as new uses.

Approve? Yes X No

DocuSigned by:

Jessica Fitzwater

**Jessica Fitzwater, County Executive
Frederick County, Maryland**

9/11/2023

Date

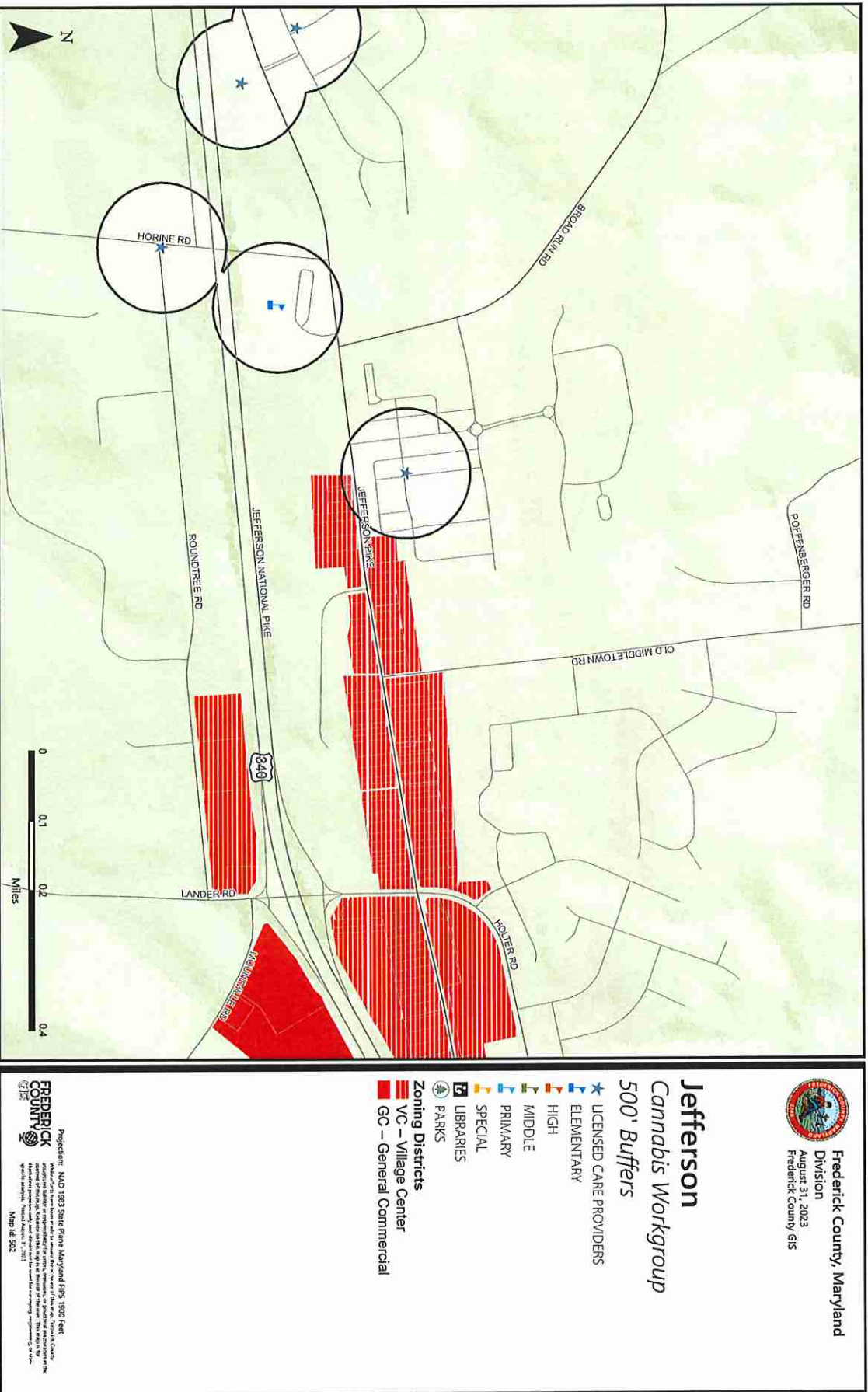
FINANCIAL IMPACT: No

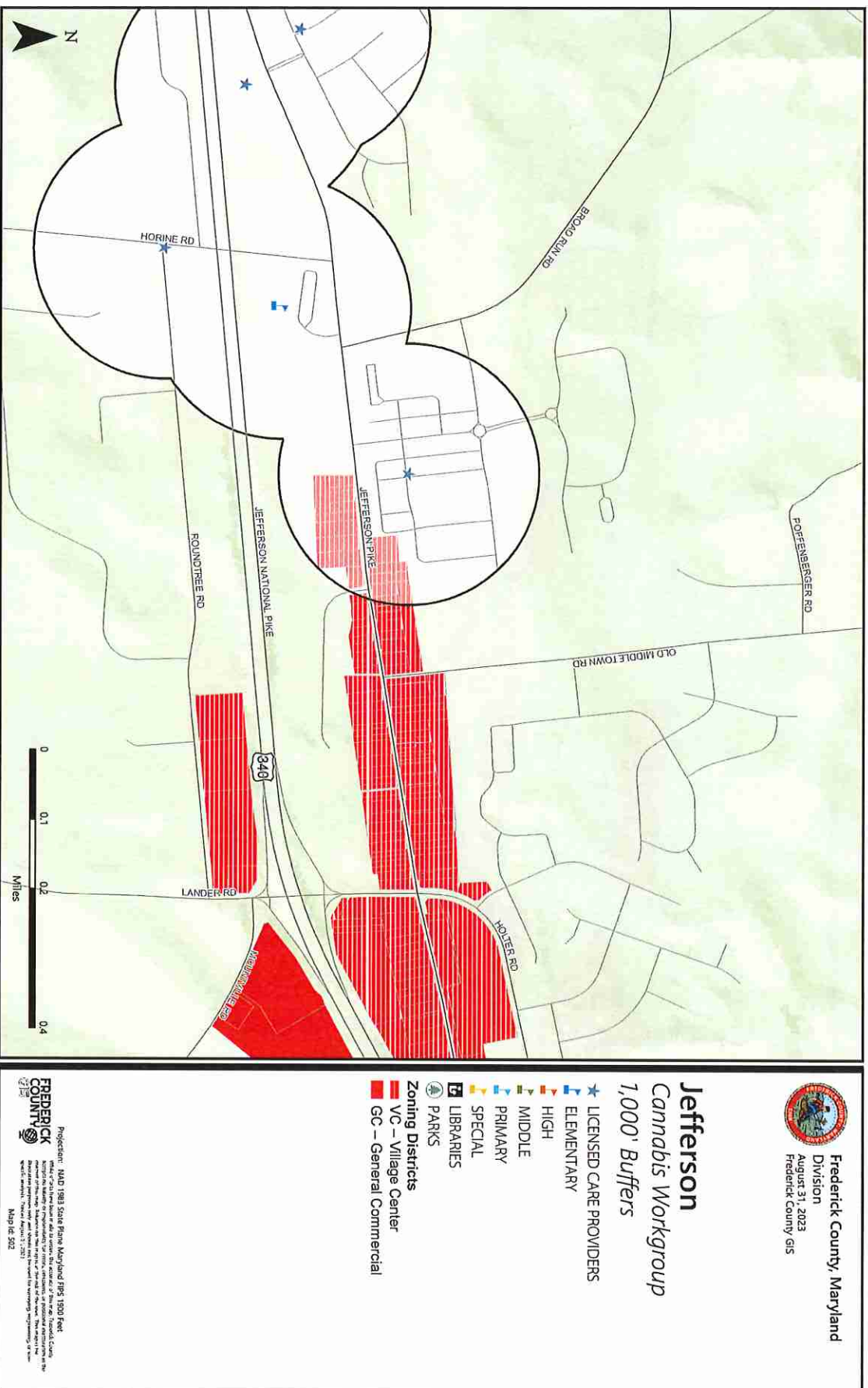
ATTACHMENT(S):

Attachment 1 – Draft Bill

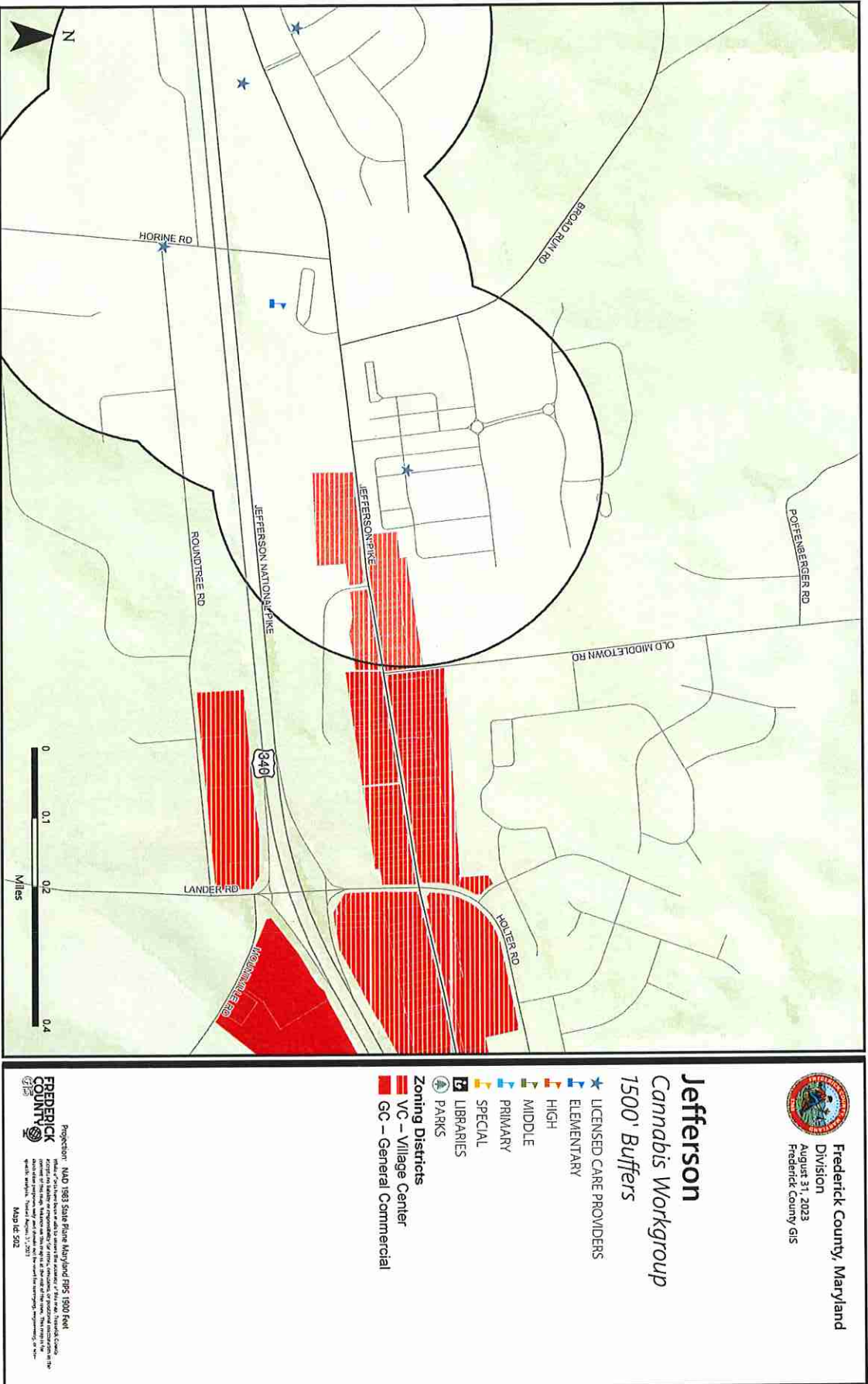
Attachment 2 – Maps Illustrating Various Buffer Distances

ATTACHMENT 2

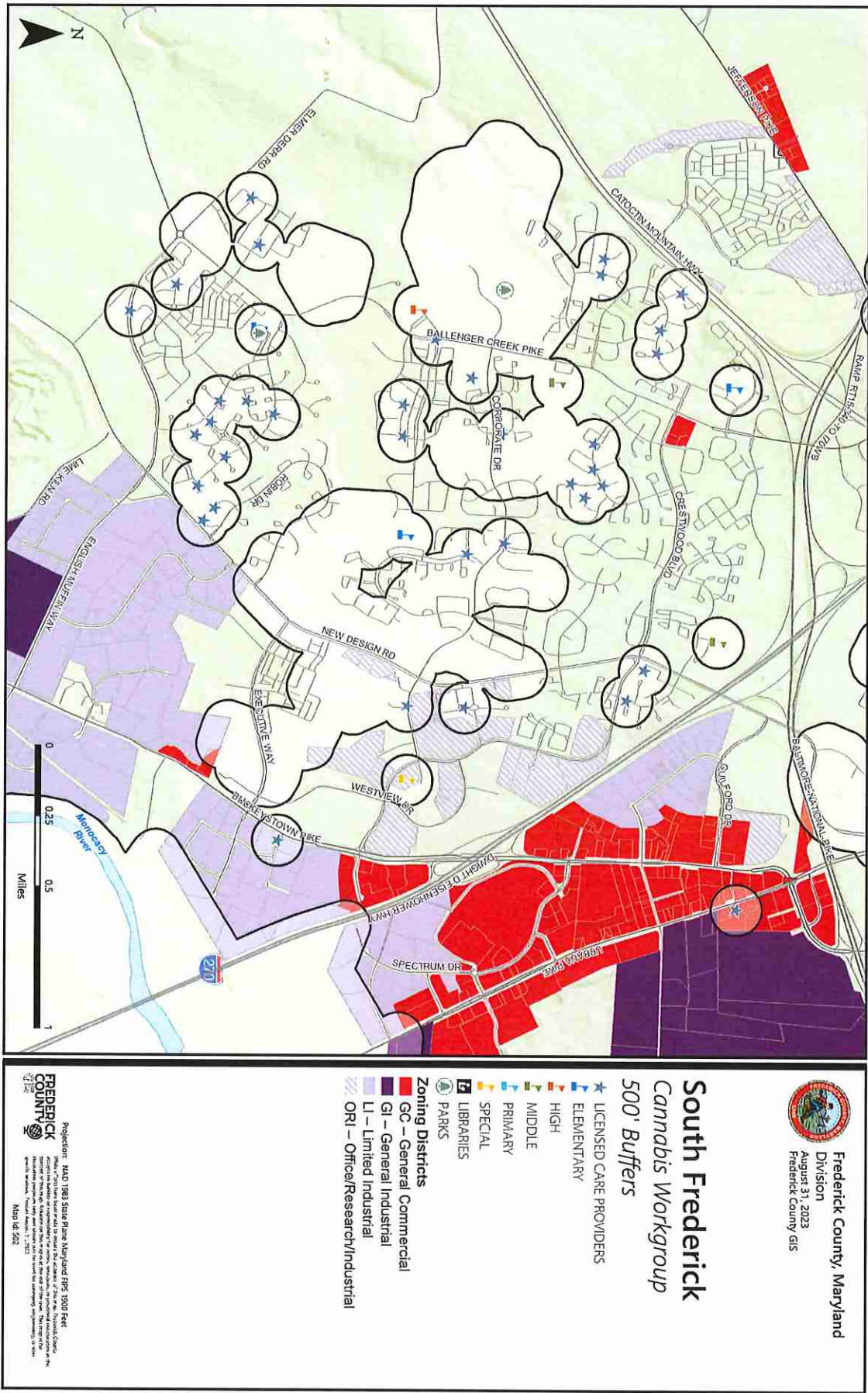




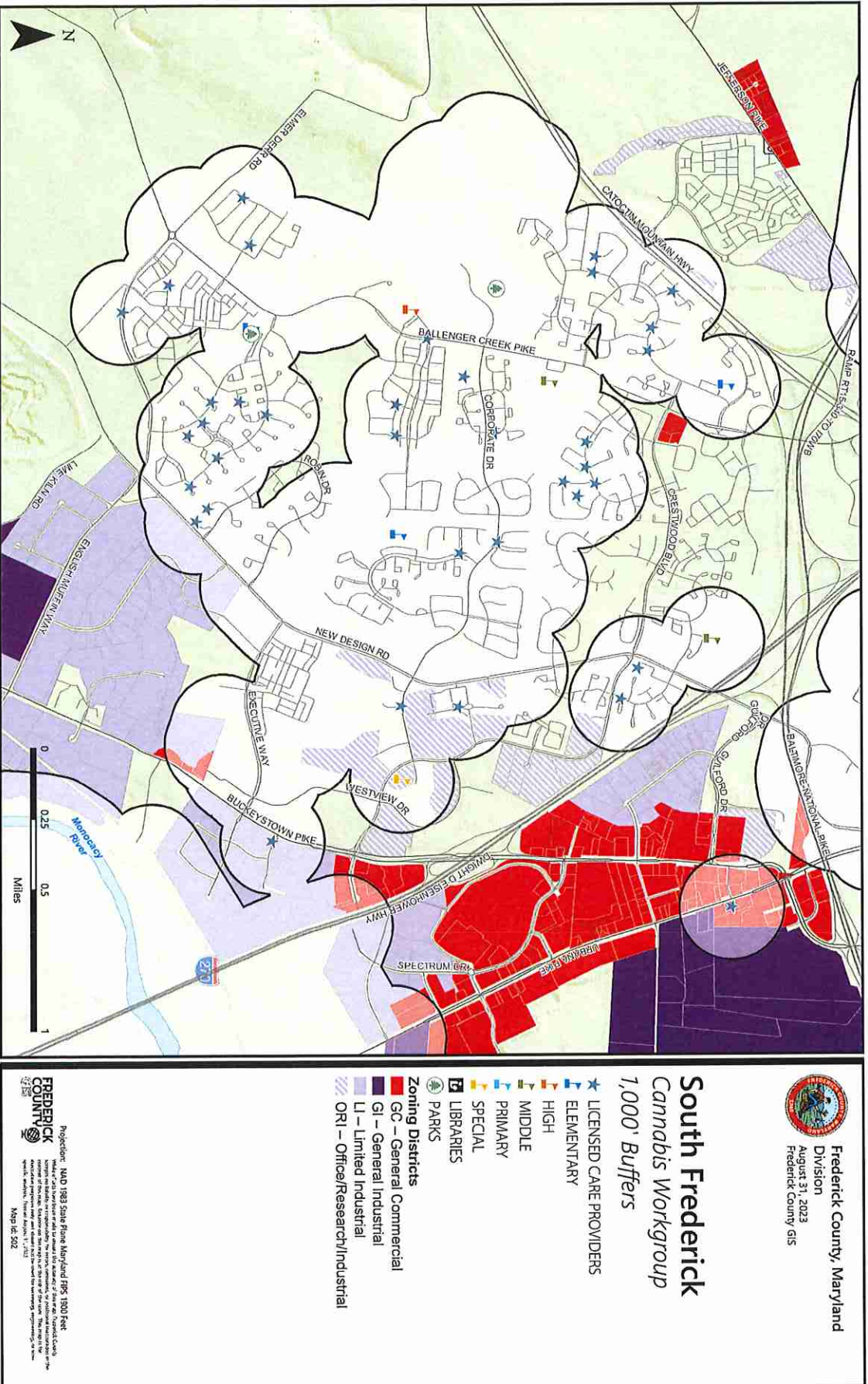
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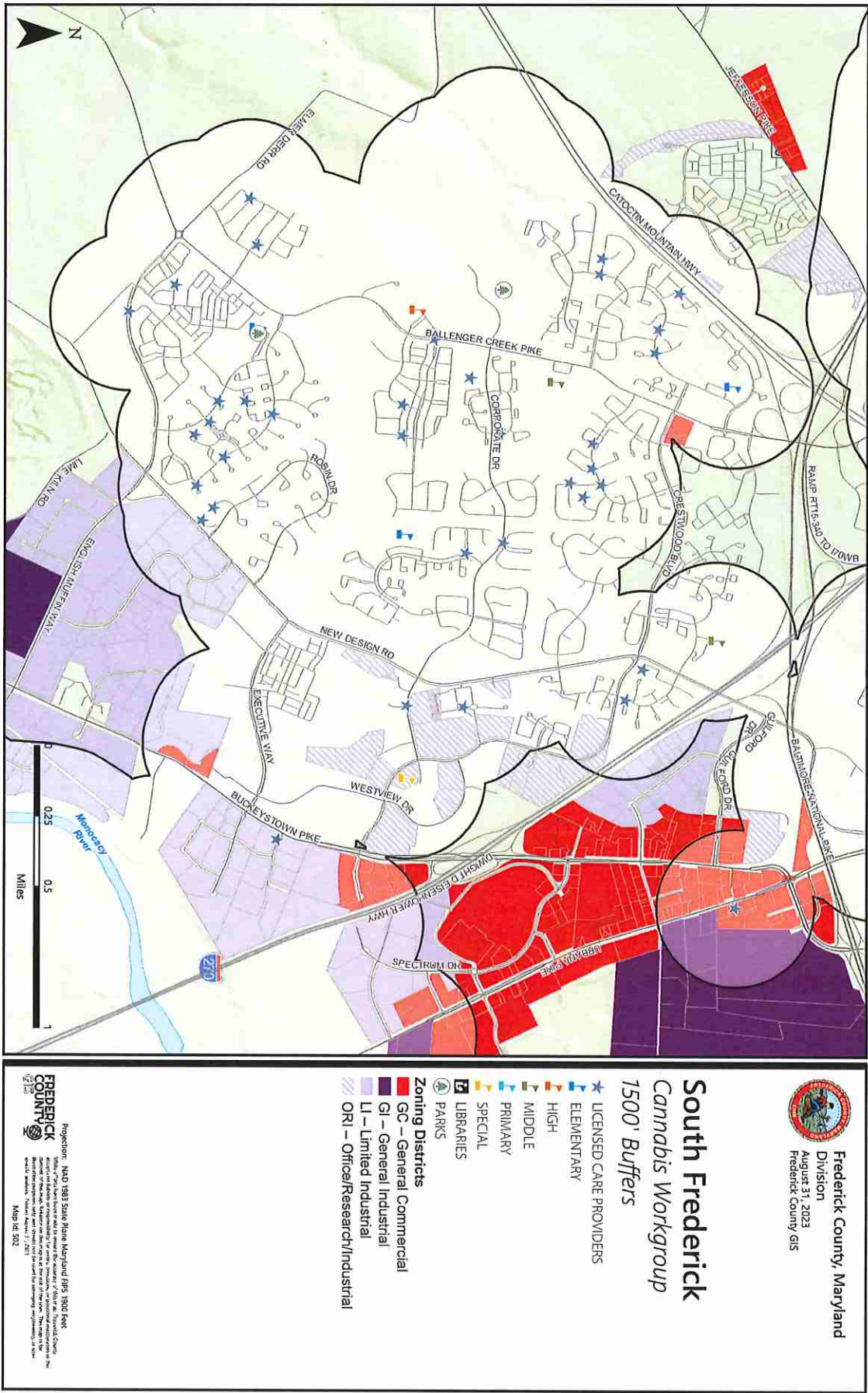
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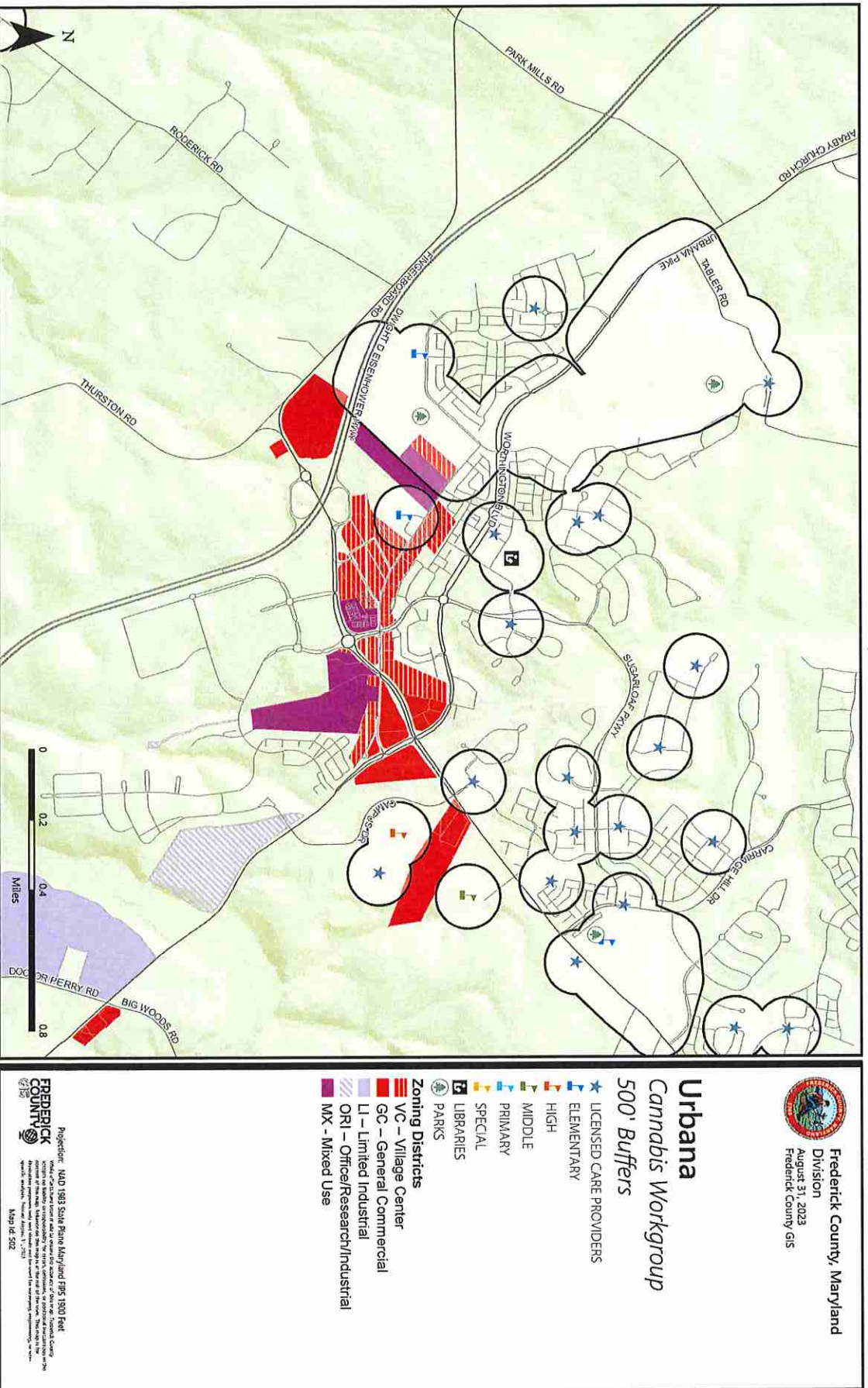
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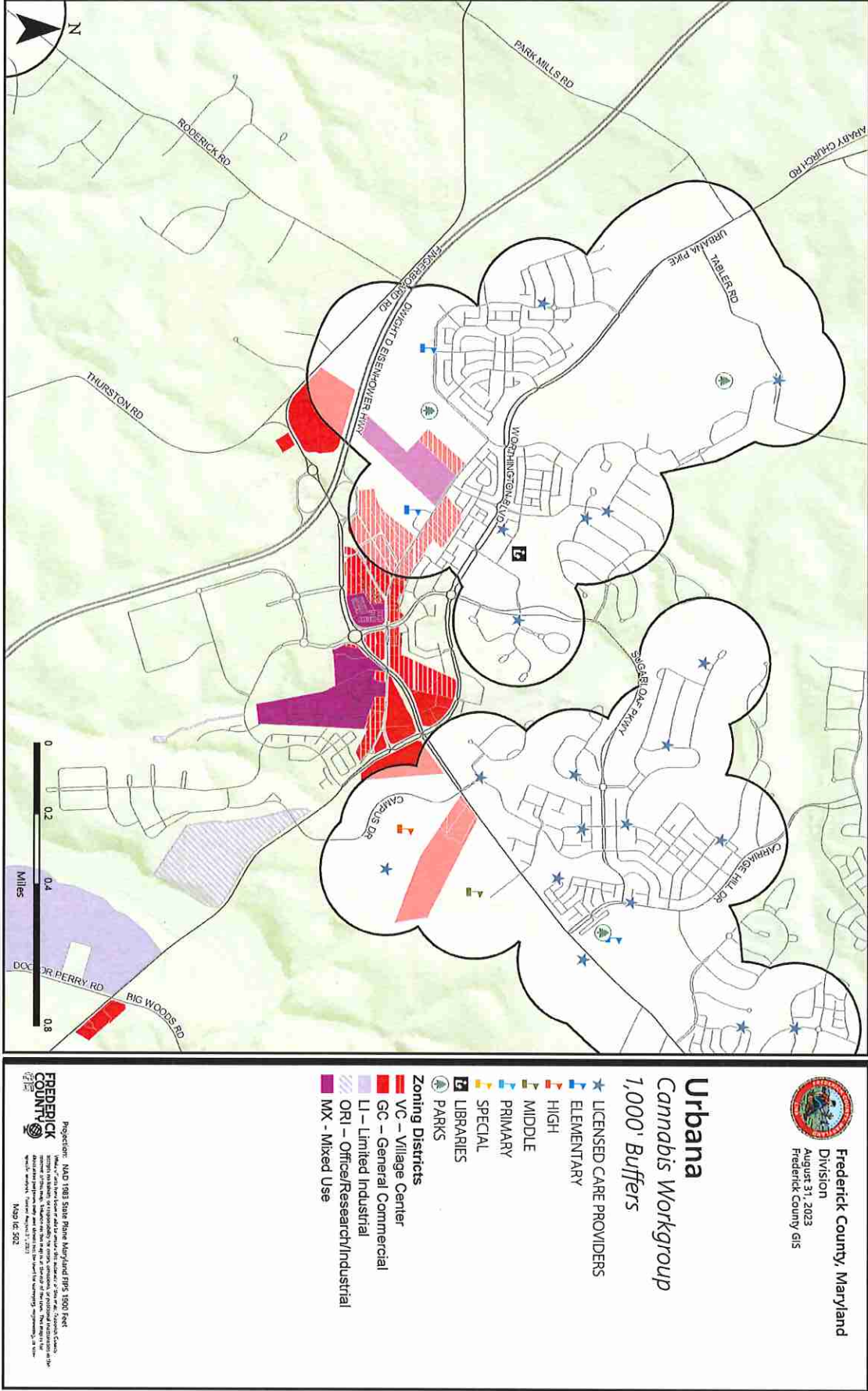
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